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TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
R.305009

In Re Application Of:

HANS-PETER BRAUN

Application No. 10/782,834	Filing Date February 23, 2004	Examiner C. Miller	Customer No. 02119	Group Art Unit 3747	Confirmation No. 5458
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Invention:

DEVICE FOR SUPPLYING FUEL FROM A TANK TO AN INTERNAL COMBUSTION ENGINE .

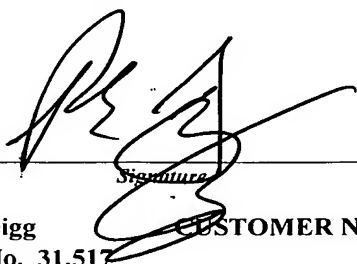
COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on

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- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
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Signature

Ronald E. Greigg
Registration No. 31,517

CUSTOMER NO. 02119

GREIGG & GREIGG PLLC
1423 Powhatan Street, Unit One
Alexandria, Virginia 22314

cc: Telephone: (703) 838-5500
Facsimile: (703) 838-5554

Dated: 05 December 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of

Hans-Peter BRAUN

Before the Board of Appeals

Serial No. 10/782,834

Art Unit: 3747

Filed: February 23, 2004

Examiner: C. Miller

For: DEVICE FOR SUPPLYING FUEL FROM A TANK TO AN INTERNAL
COMBUSTION ENGINE

APPELLANT'S BRIEF (37 CFR 41.37)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Brief is filed in support of the Notice of Appeal filed on October 5, 2005, appealing
the Examiner's decision of making final a rejection of claims 1-20.

The fee for this Appeal Brief of \$500 should be charged to Deposit Account No. 07-2100
by the attached deposit account form, submitted in duplicate..

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I - REAL PARTY IN INTEREST

The real party in interest in this appeal is:

Robert Bosch GmbH

Zentrale Patentabteilung

Postfach 30 02 20

D-70442 Stuttgart, Germany

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II - RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, there are no such appeals or interferences. None

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III - STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION - Seven (7)

Claims in the application are: 4-10.

B. STATUS OF ALL THE CLAIMS

1. Claims canceled: 1-3 and 11-20.
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 4-10.
4. Claims allowed: None.
5. Claims rejected: 4-10.

C. CLAIMS ON APPEAL

The claims on appeal are: 4-10.

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IV - STATUS OF AMENDMENTS

An amendment was filed on September 9, 2005, subsequent to the final rejection. An Advisory Action was mailed on October 11, 2005, indicating that the amendment filed on September 9, 2005, would be entered for purposes of appeal.

V - SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 4 is directed to a device for supplying fuel from a tank (1) to an internal combustion engine (4), including a fuel-supply pump (3) having an outlet fitting (21) and being fastened by means of a mount (27), the improvement wherein the mount (27) is embodied as a rigid conduit having a first fuel supply line section (8.1) connected to the outlet fitting (21) of the fuel-supply pump (3), wherein the mount (27) comprises a mount fitting (28) with a mount conduit (25) that feeds with a connection opening (31) into the first fuel supply line section (8.1), and wherein the outlet fitting (21) of the fuel-supply pump (3) is inserted into the mount conduit (25) and extends through a mounting element (41) provided in the connection opening (31). See, for example, Figs. 1-3 and spec., paras. [0007]-[0010].

Claim 5 is dependent on claim 4, and further requires that the outlet fitting (21) comprises a mounting groove (34), and wherein the mounting element (41) engages the mounting groove (34) in detent fashion. See, for example, Fig. 3 and spec., paras. [0011] and [0053].

Claim 9 is dependent on claim 4, and further requires that, in the connection opening (31), the mount (27) comprises a first shoulder (35) against which the mounting element (41) rests, and a second shoulder (39) fixing the mounting element (41) against the first shoulder (35) in cantilevered fashion. See, for example, Fig. 3 and spec., paras. [0013] and [0049].

Claim 10 is dependent on claim 4, and further requires that, in the connection opening (31), the mount (27) comprises a first shoulder (35) against which the mounting element (41)

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rests, and at least one hold-down element (55) fixing the mounting element (41) against the first shoulder (35). See, for example, Fig. 7 and spec., paras. [0014] and [0070]-[0072].

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VI - GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 4-10 stand rejected under 35 U.S.C. 103(a) as unpatentable over Bacon et al (US 5,715,798) in view of Ingram (US 4,817,997).

VII - ARGUMENTS

Claims 4 and 6-8

Claim 4 is directed to a device for supplying fuel from a tank to an internal combustion engine, including a fuel-supply pump (3) having an outlet fitting (21) and being fastened by means of a mount (27), the improvement wherein the mount (27) is embodied as a rigid conduit having a first fuel supply line section (8.1) connected to the outlet fitting (21) of the fuel-supply pump (3), wherein the mount (27) comprises a mount fitting (28) with a mount conduit (25) that feeds with a connection opening (31) into the first fuel supply line section (8.1), and wherein the outlet fitting (21) of the fuel-supply pump (3) is inserted into the mount conduit (25) and extends through a mounting element (41) provided in the connection opening (31).

Claim 4 specifically requires:

(a) a mount comprising (b) a mount fitting with (c) a mount conduit that feeds with (d) a connection opening into the first fuel supply line section, and

(e) wherein the outlet fitting of the fuel-supply pump is inserted into the mount conduit and

(f) extends through a mounting element (g) provided in the connection opening.

Bacon shows (Fig. 1) a device for supplying fuel from a tank to an internal combustion engine (col. 2, lines 50-53), including a fuel-supply pump (20) having an outlet fitting (29) inserted into a fuel pump manifold (30). The manifold (30) is embodied as a rigid conduit having an elongated fluid conduit (36) connected to the outlet fitting (29) of the fuel-supply pump (20).

The manifold (30) comprises a seal housing (50, Fig. 2) with an internal passageway (the interior of seal housing 50) that feeds via an opening (the opening surrounded by shelf 57, Fig. 6) into the fluid conduit (36). Bacon also shows a seal (54) (see, col. 3, l. 39) provided in the interior of seal housing (50).

In the final rejection, the Examiner fails to explain how the claims are being read on Bacon or what is claimed that is lacking in Bacon. However, the Examiner does state that the “mounting area (54)” of Bacon (which is actually a seal) is both a flat disc and a curved-shaped part (Final rejection, p. 2). Since these features are recited as features of the claimed “mounting element (41)” (see rejected claims 7 and 8), it is clear that the claimed “mounting element” of claim 4 is being read by the Examiner on the seal (54) of Bacon. That being the case, the claimed “connection opening,” according to the Examiner’s interpretation, must be the “cylindrical seal housing (50)” (see, col. 3, ll. 41, 42), because the claim requires “a mounting element (41) provided in the connection opening (31).”

The Board’s attention is directed to the fact that claim 4 also recites that “the outlet fitting (21) of the fuel-supply pump (3) is inserted into the mount conduit (25) and extends through a mounting element (41) provided in the connection opening (31).” The mount conduit and the connection opening are separately recited elements in the claimed combination. Claim 4 requires that the outlet fitting of the fuel-supply pump be inserted into a mount conduit and extend through a mounting element provided in the connection opening.

If the Examiner is reading the claimed “mounting element” of claim 4 on the seal (54) of Bacon, the Examiner must be reading the claimed “connection opening” on the “cylindrical

seal housing (50)” (see, col. 3, ll. 41, 42), because the claim requires “a mounting element (41) provided in the connection opening (31).” That being the case, then what is the Examiner reading as the claimed “mount conduit,” that is, the element through which the outlet fitting of the fuel-supply pump is inserted? Is it the seal cap (59)? The seal cap (59) has an opening or bore 72, but there is no “conduit” in the seal cap 59. The term “conduit” is ordinarily defined as “a pipe, tube or the like, for conveying water or other fluid.” The American College Dictionary, page 252 (New York, Random House, 1970). Seal cap (59) of Bacon is not “a pipe, tube or the like.” Therefore, it cannot reasonably be considered a “conduit.” If it (the claimed “mount conduit”) is not the cap (59), then it must be the seal housing (50). However, if the seal housing (50) is the “mount conduit,” then in Bacon, the “mount element” is in the “mount conduit,” not in the “connection opening” as required by claim 4.

The Examiner cites Ingram for a teaching of “a fuel pump connection which shows an outlet pipe with recesses that mate with an elastic member.” Final rejection, p. 2. What valve Ingram has in the rejection of claims 4-10 is, to say the least, obscure. However, it is clear that Ingram does not teach an outlet fitting of the fuel-supply pump inserted into a mount conduit and extending through a mounting element provided in a connection opening as required by claim 4.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Neither Bacon nor Ingram teaches or suggests a device for supplying fuel from a tank to an internal combustion engine of the type recited in claim 4 which includes an outlet fitting of a fuel-supply pump inserted into a mount conduit and extending through a mounting element

provided in a connection opening. Accordingly, claim 4 is not rendered obvious by the combined teachings of Bacon and Ingram.

Claim 5

Claim 5 depends from claim 4, and further recites that “the outlet fitting (21) comprises a mounting groove (34), and wherein the mounting element (41) engages the mounting groove (34) in detent fashion.” Neither Bacon nor Ingram teaches or suggests an outlet fitting for a fuel supply pump having a groove which engages a mounting element in detent fashion. Therefore, claim 5 is not rendered obvious by the combined teachings of Bacon and Ingram.

Claim 9

Claim 9 depends from claim 4, and further recites “wherein in the connection opening (31), the mount (27) comprises a first shoulder (35) against which the mounting element (41) rests, and a second shoulder (39) fixing the mounting element (41) against the first shoulder (35) in cantilevered fashion.” In the Final rejection, the Examiner states that Bacon’s cap (59) corresponds to the claimed “first shoulder” and that Fig. 3 of Bacon shows the seal (54) is cantilevered between housing (50) and the cap (59). Thus, it appears that in the rejection of claim 9, the Examiner is reading the claimed “second shoulder” on the housing (50). However, as explained with regard to the rejection of claim 4, the Examiner is also reading the housing (50) as the mount conduit and as the connection opening. It is respectfully submitted that it is inappropriate for the Examiner to read three separately described and claimed elements of appellant’s invention on the same element in the Bacon reference.

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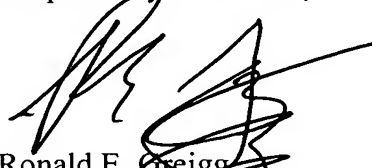
Claim 10

Claim 10 depends from claim 4, and further recites “wherein in the connection opening (31), the mount (27) comprises a first shoulder (35) against which the mounting element (41) rests, and at least one hold-down element (55) fixing the mounting element (41) against the first shoulder (35).” The examiner has not identified the “hold-down element” in Bacon. Appellant asserts that no such element is found in either Bacon or Ingram.

Conclusion

For the reasons stated above, the appellant requests that the Examiner’s rejection of the claims be reversed.

Respectfully submitted,



Ronald E. Greigg
Reg. No. 31,517
Attorney for Applicant

Date: December 5, 2005

Greigg & Greigg PLLC
1423 Powhatan Street, Unit One
Alexandria, Virginia 22314

Telephone: 703-838-5500

Facsimile: 703-838-5554

CUSTOMER NO. 02119

REG/JFG/ja

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VIII - CLAIMS APPENDIX

4. In a device for supplying fuel from a tank to an internal combustion engine, including a fuel-supply pump having an outlet fitting and being fastened by means of a mount, the improvement wherein the mount (27) is embodied as a rigid conduit having a first fuel supply line section (8.1) connected to the outlet fitting (21) of the fuel-supply pump (3), wherein the mount (27) comprises a mount fitting (28) with a mount conduit (25) that feeds with a connection opening (31) into the first fuel supply line section (8.1), and wherein the outlet fitting (21) of the fuel-supply pump (3) is inserted into the mount conduit (25) and extends through a mounting element (41) provided in the connection opening (31).
5. The device according to claim 4, wherein the outlet fitting (21) comprises a mounting groove (34), and wherein the mounting element (41) engages the mounting groove (34) in detent fashion.
6. The device according to claim 4, wherein the mounting element (41) is made of an elastic material.
7. The device according to claim 4, wherein the mounting element (41) is flat and (disk-shaped).
8. The device according to claim 4, wherein the mounting element (41) is a curved shaped part.

9. The device according to claim 4, wherein in the connection opening (31), the mount (27) comprises a first shoulder (35) against which the mounting element (41) rests, and a second shoulder (39) fixing the mounting element (41) against the first shoulder (35) in cantilevered fashion.

10. The device according to claim 4, wherein in the connection opening (31), the mount (27) comprises a first shoulder (35) against which the mounting element (41) rests, and at least one hold-down element (55) fixing the mounting element (41) against the first shoulder (35).

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IX - EVIDENCE APPENDIX

None

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X - RELATED PROCEEDINGS APPENDIX

None